



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/373,786	08/13/1999	JAMES LEISTENSNER	2449-103A	2940

6449 7590 10/31/2002

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 10/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Communication Re: Appeal**

Application No.

09/373,786

Applicant(s)

LEISTENSNIDER ET AL.

Examiner

Jeffrey Pwu

Art Unit

3624

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:

(a) ☐ it was not timely filed.

(b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).

(c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.

(d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.

(e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.

(f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☒ The appeal brief filed on 29 July 2002 is NOT acceptable for the reason(s) indicated below:

(a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.

(b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).

(c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

(d) ☒ other: See Attached

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**

3. ☐ The appeal in this application is DISMISSED because:

(a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

(b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

(c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.

(d) ☐ other: \_\_\_\_\_

4. ☐ Because of the dismissal of the appeal, this application:

(a) ☐ is abandoned because there are no allowed claims.

(b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.

(c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

## Defective Appeal Brief

Applicant in the brief filed July 29, 2002, under "Group of Claims", states that "[for] purpose of appeal, the grouped claims stand or fall together and will not be argued separately." However, Applicant did not particularly point out any group and claims that may be included in each group. In addition, Applicant, under "Argument," continues to argue each claims separately as if they do not stand or fall together. Clarification of the above issue is required.

A handwritten signature in black ink, appearing to read "J. M. Lee", located in the bottom right corner of the page.